

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

WANDA and KIRK DAY

V

No. 03-0512

PEOPLES GAS LIGHT AND COKE COMPANY

Complaint as to 1) extreme/excessive)  
over-charge; 2) unwarranted late )  
fees; 3) unwarranted deposit and )  
4) failure to read meter in )  
Chicago, Illinois )

Chicago, Illinois  
March 17, 2004

Met pursuant to notice at 1:00 p.m.

BEFORE :

MR. IAN BRODSKY, Administrative Law Judge.

APPEARANCES:

MS. WANDA DAY,  
P.O. Box 2273,  
East Chicago, Indiana 46312,  
appeared pro se;

McGUIRE WOODS LLP, by  
MS. GRETA G. WEATHERSBY,  
77 West Wacker Drive,  
Chicago, Illinois, 60601  
appeared for the respondent.

SULLIVAN REPORTING COMPANY, by  
Teresann B. Giorgi, CSR

1		<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>	
2			Re- By
3	<u>Witnesses:</u>	<u>Dir.</u> <u>Crx.</u> <u>dir.</u> <u>crx.</u>	<u>Examiner</u>
4	NONE		
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10		<u>E</u> <u>X</u> <u>H</u> <u>I</u> <u>B</u> <u>I</u> <u>T</u> <u>S</u>	
11	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
12	NONE		
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1 JUDGE BRODSKY: Pursuant to the authority of the  
2 Illinois Commerce Commission, I'll now call  
3 Docket 03-0512. This is Wanda and Kirk Day versus  
4 The Peoples Gas Light and Coke Company, and it's a  
5 complaint as to billing issues in Chicago, Illinois.

6 May I have the appearances for the  
7 record, please.

8 MS. DAY: Wanda Day, complainant. Post Office  
9 Box 2273, East Chicago, Indiana 46312.

10 MS. WEATHERSBY: Greta Weathersby representing  
11 the respondent, The Peoples Gas Light and Coke  
12 Company, of the law firm of McGuire Woods LLP, at  
13 77 West Wacker Drive, Suite 4400, Chicago, Illinois  
14 60601.

15 JUDGE BRODSKY: Thank you.

16 At this point this was to be the last  
17 status hearing before the evidentiary hearing. And  
18 what I would like at this point is for the parties  
19 to identify, to the extent possible, the issues that  
20 are still on the table and any stipulations that  
21 have been reached.

22 MS. WEATHERSBY: If I may -- or did you --

1 MS. DAY: Go ahead.

2 MS. WEATHERSBY: I have had an opportunity to  
3 review the file that was placed on my desk by  
4 Mr. Blair Hanzlik. I was hoping today if we can  
5 come to some understanding of what we're looking at,  
6 a particular billing period, two year billing  
7 period. And then we have the period of 5-2-03 to  
8 the present, and since that time we have no payment  
9 on record. We want to define the issue to the  
10 period raised by the complainant and get clarity  
11 from May 2nd, 2003 to the present, because a new  
12 meter is there. There's been actual readings and  
13 the complainant has not been making any payments.

14 My client's concern is that we have  
15 allowed a complaint that's been raised, to carry  
16 over to the present day. There has been no payment  
17 since May 2nd, 2003.

18 Could we stipulate to that?

19 MS. DAY: That is incorrect. There has been, at  
20 least, two payments made. There is, also, a  
21 question as to the accuracy of the new meter. The  
22 first two billing cycles on the new meter have some

1 error in data that shows on the bills and the bills  
2 will be used as evidence.

3                   So, I do not concur with you.

4       MS. WEATHERSBY: The new meter that was put in  
5 on May 2nd, 2003, there have been electronic  
6 readings on a monthly basis. Are you saying you're  
7 complaint disputes the accuracy as well?

8       MS. DAY: That is in the original complaint. It  
9 is not a new complaint. It's part of the original  
10 complaint.

11       MS. WEATHERSBY: Just one second. I want to  
12 look at the meter, those results. I know the first  
13 meter has been tested. I want to see if there's  
14 been any test on the second, if I could have one  
15 second.

16                   (Short pause.)

17       MS. DAY: Your Honor, I'm not comfortable with  
18 that because I was not allowed to be present when  
19 the meter was tested. I was not given notice,  
20 proper notice, as I was told I would.

21                   I'm a layman. I'm not an attorney.  
22 I don't really know the process in terms of today's

1 status hearing. We're not here to try this today,  
2 right?

3 MS. WEATHERSBY: No, we are not.

4 JUDGE BRODSKY: Today is not going to be the  
5 evidentiary hearing. What we are trying to do is  
6 define the issues that will be heard when we meet  
7 next time. To the extent that there is going to be  
8 discussion about that today to make the evidentiary  
9 hearing issues clear, that's fine. But, in terms of  
10 evidence being taken, that will be at a subsequent  
11 session and not today.

12 MS. DAY: Because we are going on record now.  
13 She and I have never met until today.

14 MS. WEATHERSBY: We're trying to define the  
15 issues so when a representative from Peoples Gas  
16 steps forward and you step forward we know what they  
17 are. And in reviewing your complaint, which I did,  
18 I'm just saying it shows the billing period in  
19 dispute November 1999 through January 2002, and any  
20 questions that you have regarding adjustments to  
21 those bills.

22 Now, I'm saying that after -- May 2003

1 the meter was changed. And the records that I have  
2 before me show there has been no payments by the  
3 customer after May 2003. I was hoping we could  
4 stipulate. As far as I could see the billing period  
5 from May 2003 to the present, March 2004, there have  
6 been no payments on the account.

7 MS. DAY: That is incorrect.

8 MS. WEATHERSBY: Okay.

9 JUDGE BRODSKY: It doesn't sound like there is a  
10 stipulation.

11 MS. WEATHERSBY: No, as to the time period or to  
12 the issues. But, I think we have provided you  
13 copies of meter test results, I know I see that in  
14 the file. Is there anything else that you think you  
15 need from Peoples at this point?

16 MS. DAY: I did make some requests of Blair. He  
17 did not -- he said it would be part of the actual  
18 hearing. He didn't honor the request.

19 MS. WEATHERSBY: I think, based upon the record  
20 that I see here and what I've been advised of by my  
21 associate, Blair Hanzlik, I think we'll be ready to  
22 go forward with the hearing on March 23rd. I don't

1 think I have a conflict. That is the scheduled date  
2 at 9:30.

3 JUDGE BRODSKY: Previously this was scheduled  
4 for March 23rd, I believe. Actually, that date is  
5 going to be problematic. We do need to move it  
6 slightly back.

7 MS. WEATHERSBY: That would be fine.

8 JUDGE BRODSKY: I'm not looking at a lengthy  
9 delay at all. Does anyone have a conflict with  
10 April 1st, which is the following Thursday?

11 MS. WEATHERSBY: April 1st is good, if it's in  
12 the afternoon, for me.

13 MS. DAY: Sounds good to me.

14 MS. WEATHERSBY: Can hearings take place in the  
15 afternoon?

16 JUDGE BRODSKY: It should start at 9:30.

17 MS. WEATHERSBY: I can, probably, have someone  
18 cancel something else that I have at 10:30. I'll  
19 proceed with this, otherwise the 2nd is wide open  
20 for me. Is that open?

21 JUDGE BRODSKY: April 2nd is a little more  
22 problematic.



1 MS. WEATHERSBY: We'll go with April 1st at  
2 9:30.

3 JUDGE BRODSKY: Since this is going to be the  
4 evidentiary hearing, you should plan for it to be  
5 the entire day. Although, there is no requirement  
6 that it go the entire day. I would certainly  
7 encourage people to make their points concisely in  
8 advance. It's hard to gauge the amount of time it  
9 will take.

10 MS. WEATHERSBY: Thank you.

11 JUDGE BRODSKY: That's something everyone should  
12 be aware of.

13 MS. DAY: If I may ask, what is the time?

14 JUDGE BRODSKY: We'll start at 9:30. And at  
15 that point we'll go forward with the issues that  
16 remain.

17 Let me ask it this way, are there any  
18 issues that have been settled or stipulated to that  
19 were initially raised?

20 MS. WEATHERSBY: Having reviewed Mr. Hanzlik's  
21 notes and after speaking with him, it appears that  
22 the parties have not been able to come to an

1 agreement with respect to the final bills.

2 MS. DAY: I made an offer to compromise. It was  
3 not accepted.

4 JUDGE BRODSKY: Okay. I don't want to get into  
5 the details of a settlement offer on the record. It  
6 sounds like everything is still at issue --

7 MS. DAY: Yes.

8 JUDGE BRODSKY: -- is that correct?

9 MS. DAY: I believe so.

10 JUDGE BRODSKY: All right. So, then, that will  
11 be the scope of all the issues raised in the  
12 complaint.

13 Is there anything further we need to  
14 do today?

15 MS. WEATHERSBY: Is it necessary to provide a  
16 witness list and everything, or do we just come with  
17 our witnesses on that day with respect to the  
18 documents that we'll be producing?

19 JUDGE BRODSKY: Is it something that you want to  
20 discuss today?

21 MS. DAY: Yeah, maybe we should.

22 MS. WEATHERSBY: Is this a discussion that would

1 be on the record with respect to witnesses? It's  
2 been a while that I've handled these types of  
3 hearings.

4 JUDGE BRODSKY: Okay. With respect to witnesses  
5 and documents and so forth, if you want to arrange  
6 an agreement of both sides to do that on the record  
7 at this point, it's fine.

8 MS. DAY: Well, I'm going to disagree to doing  
9 that only because I may retain counsel for next  
10 week. And, so, I should, probably, before I do  
11 that --

12 MS. WEATHERSBY: All I'm thinking, if Ms. Day  
13 would like, and I certainly would like, since the  
14 hearing is pushed back and today is the 17th,  
15 perhaps, we could provide each other, as a courtesy,  
16 you know, just a letter, as of the 29th or 30th,  
17 indicating if we'll have witnesses and who those  
18 witnesses will be. I don't have a problem with  
19 that.

20 MS. DAY: I, personally, don't. I would consult  
21 with counsel.

22 MS. WEATHERSBY: All right.

1 JUDGE BRODSKY: Are you definitely obtaining  
2 counsel for this hearing?

3 MS. DAY: I believe it's a decision I'll make as  
4 of today.

5 MS. WEATHERSBY: Now, typically, as we know, if  
6 counsel is obtained after all of this has occurred,  
7 counsel will probably be seeking more time, which is  
8 fine.

9 JUDGE BRODSKY: Well --

10 MS. DAY: Maybe not. I've kept good notes. It  
11 just depends on who I retain, you know. There's  
12 been a change of counsel on Peoples Gas side.

13 MS. WEATHERSBY: I've always been on the case.

14 MS. DAY: But, you haven't been aware of what's  
15 going on. We're enlightening you today.

16 JUDGE BRODSKY: Enough.

17 Are you intending to get counsel or do  
18 you truly not know?

19 MS. DAY: I'm intending to get counsel.

20 JUDGE BRODSKY: Then, if that's the case, then,  
21 probably, we should put this a few more weeks out  
22 and when this is set, we'll hear it start to finish.

1 I don't want the situation of your attorney showing  
2 up, appearing in the case the day before it's heard  
3 or the week before it's heard. It's not a  
4 meaningful amount of time to prepare.

5                   So, let's take the time and get it  
6 done properly and when we meet next time it's going  
7 to be to hear the case.

8                   Let's forget the 1st of April. Take a  
9 look at April 14th. It's a Wednesday.

10       MS. WEATHERSBY: Your Honor, I'll be on vacation  
11 during that week. If we could, possibly, do it the  
12 21st or 22nd, I'll be available all day. I'm on  
13 vacation that entire week.

14       JUDGE BRODSKY: I can't schedule it for either  
15 the 21st or the 22nd. I can do it on the 20th, if  
16 that's okay.

17       MS. DAY: What day is it?

18       JUDGE BRODSKY: It would be a Tuesday. Is that  
19 okay with you, Ms. Day?

20       MS. DAY: Yes.

21       MS. WEATHERSBY: It looks like it's open at this  
22 point. That's fine.

1 JUDGE BRODSKY: So, we'll do it 9:30, Tuesday,  
2 April 20th.

3 At this point I'm not going to be  
4 inclined to grant any further continuances past  
5 April 20th. If there are issues that are going to  
6 be raised, the parties need to be in contact with me  
7 in enough time to set some sort of hearing the first  
8 week of April, since, obviously, you're not going to  
9 be here the second week, right?

10 So, in other words, if you're  
11 obtaining counsel, Ms. Day, don't wait to do it.

12 MS. DAY: Oh, I will be doing that in the next  
13 24 hours.

14 JUDGE BRODSKY: Because if there is anything  
15 that needs to be done, it has to be done in  
16 sufficient time to meet all these scheduling  
17 constraints.

18 MS. DAY: Sure.

19 JUDGE BRODSKY: All right. If there's going to  
20 be any pretrial motions of any kind, I want them  
21 filed no later than the close of business on April  
22 5th.

1                   Now, inasmuch as you will be getting  
2 counsel, I'm not going to address the question,  
3 then, of how you want to go about exchanging trial  
4 related information regarding witnesses and  
5 regarding other materials at this time. I'll leave  
6 that to your attorney and to the attorney for  
7 Peoples to work out.

8                   At this point, make sure she has your  
9 contact information so that she could provide it to  
10 whoever might need it.

11                  Are there any other issues for today?

12       MS. DAY: No.

13       JUDGE BRODSKY: Hearing nothing, then, this  
14 matter is continued until April 20th for an  
15 evidentiary hearing to begin at 9:30. And I will  
16 expect any pretrial motions to be filed no later  
17 than April 5th.

18                  Thank you very much.

19       MS. DAY: April 5th or April 1st?

20       JUDGE BRODSKY: April 5th, at the close of  
21 business. That is Monday, April 5th for pretrial  
22 motions.

1 MS. DAY: Okay.

2 JUDGE BRODSKY: Thank you.

3 (Whereupon, the matter was

4 continued to 4-20-04.)

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